

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

LINDA BROWN, IRENE CORNETT,	)	
BRENDA MURABITO, PAMELA	)	
PARKER and TARA SHERMAN,	)	
	)	
Plaintiffs,	)	8:05CV457
	)	
v.	)	
	)	
CITY OF OMAHA and CITY OF	)	MEMORANDUM AND ORDER
OMAHA POLICE AND FIRE	)	
RETIREMENT SYSTEM BOARD OF	)	
TRUSTEES,	)	
	)	
Defendants.	)	
_____	)	

This matter is before the Court on the following motions:

- 1) A motion to dismiss plaintiff Linda Brown from this action filed by the defendants City of Omaha and the City of Omaha Police and Fire Retirement System Board of Trustees (cumulatively "defendants") (Filing No. 8).
- 2) A motion for summary judgment filed by defendant the City of Omaha (Filing No. 10).
- 3) A motion to sever filed by the defendants (Filing No. 22).

Having reviewed the motions, briefs, evidentiary submissions and the applicable law, the Court makes the following findings.

**Motion to Dismiss Linda Brown**

Defendants' motion seeks to dismiss plaintiff Linda Brown from the complaint because her claims are being prosecuted under a separate action, *Brown v. City of Omaha*, 8:03cv485. Plaintiffs ask that the motion to dismiss be denied as moot because the relevant claim was already dismissed without prejudice from the separate action by court order issued on October 13, 2005 (8:03CV485, Filing No. 85)(see Filing No. 14). Where the claim has been dismissed from the other action, the Court will deny defendants' motion to dismiss party Linda Brown as moot.

**City of Omaha's Motion for Summary Judgment**

Next, the City of Omaha has filed a motion for summary judgment seeking to have all claims against it dismissed (Filing No. 10). Later, the City of Omaha moved to withdraw this motion (Filing No. 19), and then moved to strike the motion to withdraw the motion for summary judgment (Filing No. 20). The Court will strike the motion to withdraw and will reserve ruling on the motion for summary judgment. The Court will grant the plaintiffs leave to file a supplemental response to the motion for summary judgment on or before July 1, 2006.

**Motion to Sever**

Defendants have also filed a motion to sever the plaintiffs' claims (Filing No. 22). The Court will dismiss this motion without prejudice. Accordingly,

IT IS ORDERED:

- 1) Defendants' motion to dismiss (Filing No. 8) is denied as moot;
- 2) Defendant City of Omaha's motion to strike (Filing No. 20) its previously filed motion to withdraw its motion for summary judgement is granted;
- 3) Defendant's motion to withdraw its motion for summary judgment (Filing No. 19) is stricken;
- 4) Plaintiffs are granted leave to file a supplemental response on or before July 1, 2006, to defendant City of Omaha's motion for summary judgment (Filing No. 10); and
- 5) Defendants' motion to sever (Filing No. 22) is denied without prejudice.

DATED this 24th day of January, 2006.

BY THE COURT:

/s/ Lyle E. Strom

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LYLE E. STROM, Senior Judge  
United States District Court